



Report on Public Policy Position

Name of Section:

Appellate Practice Section

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Proposed Court Rule:

2005-36 - Proposed Amendment of Rules 7.204 and 7.205 of the Michigan Court Rules

The proposed amendment of Rule 7.204 of the Michigan Court Rules would make various technical changes. The proposed amendment of Rule 7.205 of the Michigan Court Rules would clarify how a motion for a new trial, a motion for a rehearing or reconsideration, or a motion for other postjudgment relief tolls the time within which to file an application for leave to appeal to the Court of Appeals.

Date position was adopted:

2/23/07

Process used to take the ideological position:

Meeting of Council of Appellate Practice Section

Number of members in the decision-making body:

23

Number who voted in favor and opposed to the position:

20 in favor

Position:

In regard to the proposed amendment contained in ADM file number 2005-36, the Appellate Practice Section recommends alternative language to (A)(2) as follows:

(A) Time Requirements. An application for leave to appeal must be filed within:

* * *

(2) 21 days after the entry of an order deciding a motion for new trial, a motion for rehearing or reconsideration, or a motion for relief from the order or judgment appealed, if the motion was filed within the initial 21-day appeal period or within further time the trial court may have allowed during that 21-day period.

As the above indicates, the Section suggests changing the word “denying” to “deciding” so that it is clear that an application can be filed not only from an order denying a motion but also an order granting a motion or an order granting in part or denying in part a motion. The Section believes use of the alternate word “deciding” avoids such unintended limitation. The Section’s proposed language also substitutes the language “relief from the order or judgment appealed from” for “other post judgment relief” so that the court rule will not unduly restrict applications from motions for relief other than “post judgment” relief.

The text (may be provided by hyperlink) that is the subject of or referenced in this report:

<http://www.courts.michigan.gov/supremecourt/Resources/Administrative/2005-36-Order.pdf>